

Robert Penchina  
 Katharine Larsen  
 LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.  
 321 West 44th Street, Suite 510  
 New York, NY 10036  
 (212) 850-6100

IN THE UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

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ADVANCE MAGAZINE PUBLISHERS INC.,	:	
d/b/a CONDÉ NAST PUBLICATIONS,	:	Case No. 09 CV 10257 JGK
	:	
Plaintiff,	:	
v.	:	ECF Case
JOHN DOES 1 - 5,	:	
Defendants.	:	
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**EX PARTE APPLICATION FOR ORDER AUTHORIZING IMMEDIATE DISCOVERY**

Plaintiff Advance Magazine Publishers Inc., d/b/a Condé Nast Publications (“Condé Nast”), by its attorneys and pursuant to Federal Rules of Civil Procedure 26(d) and 45, the Declaration of Robert E. Pick, and the legal authority cited in the accompanying Memorandum of Law, hereby applies for an Order authorizing Condé Nast to take immediate discovery in this action. In support thereof, Condé Nast states as follows:

1. Condé Nast seeks leave to serve immediate discovery on a third party Internet Service Provider (“ISP”) and a third party website operator in order to determine the true identities of Defendants John Does 1 - 5 (“Defendants”), who are being sued for direct copyright infringement, contributory copyright infringement, and violations of the Computer Fraud and Abuse Act.

2. As alleged in the Complaint, Defendants have engaged, and continue to engage, in a pattern and practice of knowingly, intentionally and willfully infringing Condé Nast's copyrights by gaining unauthorized access to Condé Nast's computers and retrieving files containing copies of copyrighted content from Condé Nast magazines such as *GQ*, and then posting, publicly displaying, distributing unauthorized copies via the Internet, and inducing and causing infringement of Condé Nast's copyright rights by third parties.

3. Although Defendants' identities are currently unknown, Defendants can be identified by the unique IP address assigned to their computer on the date and time of the illegal conduct and by the operators of the websites to which Defendants provided Condé Nast's copyrighted works.

4. Therefore, Condé Nast seeks authorization to serve Rule 45 subpoenas<sup>1</sup> on AT&T, the ISP associated with Defendants' IP address, as well as on Google, the operator of the Blogger website that hosts the FashionZag blog.

5. In the AT&T subpoena, Condé Nast will seek documents and other electronically-stored information that may be used to identify Defendants, including those that show the names, current addresses, permanent addresses, telephone numbers, e-mail addresses, and the Media Access Control ("MAC") addresses of their computer hardware.

6. In the Google subpoena, Condé Nast will seek documents and other electronically-stored information that may be used to identify Defendants, including those that show the names, current addresses, permanent addresses, telephone numbers, e-mail addresses, IP addresses, and the Media Access Control ("MAC") addresses of their computer hardware.

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<sup>1</sup> Condé Nast will separately petition this court for the issuance of a subpoena pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512(h).

7. Good cause exists to allow Condé Nast to conduct this discovery in advance of Rule 26(f) conference where there is no known defendant with whom to confer.

WHEREFORE, Condé Nast applies for an Order authorizing Condé Nast to take immediate discovery in this action.

Dated: New York, New York  
December 18, 2009

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.

By: s/Robert Penchina

Of Counsel:  
Jerry S. Birenz, Esq.  
Sabin, Bermant & Gould LLP  
Four Times Square  
New York, N. Y. 10036-6526  
(212) 381-7057

Robert Penchina  
Katharine Larsen  
321 West 44th Street, Suite 510  
New York, NY 10036  
rpenchina@lskslaw.com  
(212) 850-6100

*Attorneys for Plaintiff Advance Magazine  
Publishers Inc., d/b/a Condé Nast Publications*